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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,923	12/13/2000	Chadwick M. Meyer	7192-0001	5193
7590 05/20/2004				
DICKINSON WRIGHT PLLC				
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Washington, DC 20036				
EXAMINER				
HAMILTON, LALITA M				
ART UNIT		PAPER NUMBER		
3624				

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/734,923

Applicant(s)

MEYER ET AL.

Examiner

Lalita M Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on March 10, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### Summary

On December 10, 2003, an Office Action was sent to the Applicant rejecting claims 1-37. On March 10, 2004, the Applicant responded by amending claims 1, 13, 15-17, 23, 31, and 35.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Wallman (6,601,044).

Wallman discloses a method of creating a portfolio of securities system, subsystem, and method comprising creating or having created one or more stock portfolios, each having two or more holdings (col.11, lines 25-45 and col.19, line 60 to col.20, line 20); for each of the one or more stock portfolios, determining or having determined the a percentage of the portfolio for that each holding (col.11, lines 25-45 and col.19, line 60 to col.20, line 20); displaying said portfolios and percentages for each holding of each portfolio and making said portfolios available to an investors on a computer operated network site (col.11, lines 25-45; col.19, line 60 to col.20, line 20;

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and col.12, lines 34-55); enabling said investors to create an accounts using said network site (col.12, lines 34-55 and col.28, lines 40-63); enabling said investors to choose which stock portfolio or portfolios to purchase, and an amount of money to invest in each one, wherein by investing the amount of money in a particular portfolio, the an investor becomes an owner of an amount of each of the holdings contained in said portfolio, wherein the amount of each holding that is owned by said investor is based on the total-amount of money invested by said investor in said portfolio, and the percentage of the portfolio for each holding (col.11, lines 25-45 and col.21, lines 20-62); allocating the amount of each of the holdings owned by said investors into said accounts (col.11, lines 25-45 and col.21, lines 20-62); creating or having created one or more stock portfolios each containing less than 30 holdings (col.21, lines 20-60); listing said portfolios and providing information about each portfolio and its holdings on said computer operated network site (col.32, lines 20-40); the method comprises enabling said investors to use an online payment application to pay for said investments (col.28, lines 42-63); setting up an account for each investor that has been approved through a registration process (col.28, lines 42-63); calculating the total number of shares of each holding to buy from a stock clearing house, and waiting a predetermined period of time before buying said shares from said stock clearing house, wherein volume discounts can then be obtained (col.22, lines 5-35); enabling said investors to choose which stock portfolios to sell, and how much to sell of each one, wherein the number of shares of stock in each holding that remains in said accounts will be based on the total dollar amount sold of each portfolio, and the percentage that each holding represents of the

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total value of each portfolio sold (col.27, lines 38-62); calculating the number of shares of stock to transfer between accounts, and the total number of shares of stock of each holding to buy and/or sell, based on said purchases and sales, and waiting until a predetermined time before buying and/or selling shares of stock, wherein volume discounts can there be obtained (col.21, lines 20-62; col.22, lines 5-35; and col.29, lines 10-20); having a portfolio manager adjust one or more of said portfolios, by adjusting the holdings and/or the percentages that they represent of the total value of said portfolios (col.21, lines 20-52 and col.22, lines 5-35); calculating the number of shares of stock to transfer between accounts, and the total number of shares of stock of each holding to buy and/or sell, based on the combination of said purchases, sales and adjustments, and waiting until a predetermined time before buying and/or selling shares of stock, wherein volume discounts can then be obtained (col.21, lines 20-62; col.22, lines 5-35; and col.29, lines 10-20); allocating the appropriate number of shares of stock that has been bought and/or sold and/or transferred into the appropriate accounts (col.21, lines 20-62; col.22, lines 5-35; and col.29, lines 10-20); the method takes into account the number of shares that are available in a system holding account in calculating the number of shares of each holding to buy and/or sell ((col.21, lines 20-52 and col.22, lines 5-35); buying an amount of shares of stock in excess of a needed amount to fulfill the purchase orders, so that volume discounts can then be obtained, wherein the difference between the amount of shares purchased and the needed amount to fulfill the purchase orders are placed in a system holding account (col.21, lines 20-62; col.22, lines 5-35; and col.29, lines 10-20); assessing fees that are owed by

said investors as a percentage of the total amount invested, wherein said percentage is capable of being adjusted depending on the amount invested (col.12, line 64 to col.13, line 10); wherein the system is adapted to enable investors to own fractions of shares of stock (col.21, lines 20-60); having an investor generate a set of responses to a questionnaire to determine the investor's goals and risk tolerances, and using the set of responses to the questionnaire to determine an appropriate asset allocation for said investor (col.29, lines 10-56); displaying said asset allocation on a computer operated network site for the investor to review and allowing said investor to decide whether said allocation is acceptable (col.29, lines 10-56); searching one or more existing portfolios created by a portfolio manager to determine an the-appropriate customized portfolio composition, and then creating a customized portfolio based on said asset allocation and said composition, wherein each of said portfolios comprises at least two holdings and each of said at least two holdings is associated with a percentage of the portfolio (col.29, lines 10-56); displaying said customized portfolio and its composition for the investor to review and allowing said investor to decide whether said customized portfolio is acceptable (col.29, lines 10-56); allowing said investor to indicate an amount to be invested in said customized portfolio; said questionnaire relates to one or more of the following factors: time until retirement, risk tolerance levels, objections to certain industries, amount to be invested, and the desire for tax management (col.29, lines 10-56); said asset allocation comprises percentages for one or more of the following investment categories: small cap, mid cap, large cap, international stocks, bonds, and cash (col.25, lines 18-54 and col.26, lines 10-28); allowing said investor to reject said

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asset allocation, wherein said investor is prompted to return to said questionnaire (col.29, lines 10-57 and col.31, line 30 to col.32, line 20); allowing said investor to reject said customized portfolio, wherein the method comprises searching said one or more existing portfolios again to determine a second appropriate customized portfolio composition, and creating a second customized portfolio based on said asset allocation and said composition (col.29, lines 10-56); displaying said second customized portfolio and its composition for the investor to review and allowing said investor to decide whether said second customized portfolio is acceptable (col.29, lines 10-56); and selecting one or more holdings contained in said one or more existing portfolios for each asset class in said asset allocation (col.29, lines 10-56).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lalita M. Hamilton